

08-29-05

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Practitioner's Docket No. FORE-43

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Ronald Bianchini, Jr.

Application No.: 09/293,563

Group No.: 2665

Filed: 04/15/1999

Examiner: Steven H. D. Nguyen

For: VERY WIDE MEMORY TDM SWITCHING SYSTEM

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**PETITION FOR REVIVAL OF AN APPLICATION
FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 C.F.R. § 1.137(a)**

1. Applicant petitions for the revival of the above-identified application so an RCE may be entered.

2. Nature of abandonment:

Applicant never received an Office Action issued for the above-identified patent application until August 16, 2005, just before the application was abandoned by the U.S. Patent and Trademark Office. Only when applicant's attorney phoned the Examiner asking about the status of a response to the Office Action did applicant learn an Office Action existed. Declarations by applicant's attorney and his office manager are enclosed supporting the facts.

3. Showings from the relevant parties as to the causes of the unavoidable delays are filed herewith; said

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*
(When using Express Mail, the Express Mail label number is *mandatory*;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

X deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

37 C.F.R. § 1.8(a)

☐ with sufficient postage as first class mail.

37 C.F.R. § 1.10*

X as "Express Mail Post Office to Addressee"

Mailing Label No. **EL700964437US (mandatory)**

TRANSMISSION

☐ facsimile transmitted to the Patent and Trademark Office, (703) _____

Tracey L. Klaas
Signature

Date: 8/26/05

Tracey L. Klaas

(type or print name of person certifying)

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

showing establishes that the entire delay in filing the required reply from the due date for the reply until the filing of this petition was unavoidable. 37 C.F.R. § 1.137(a)(3) .

4. Status of applicant:

This application is on behalf of other than a small business entity—fee \$500.00

5. In response to the subject Office Action, an RCE is enclosed along with a response.

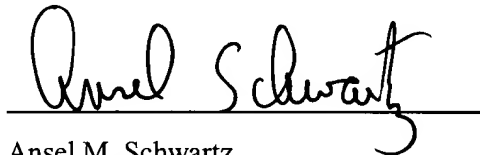
6. A Notice of Abandonment for the above-identified patent application was mailed by the U.S. Patent and Trademark Office on August 18, 2005.

7. Fee payment:

Attached is a check in the amount of \$500.00.

A duplicate of this petition is attached.

Charge any additional fees required by this paper or credit any overpayment to Deposit Account No. 19-0737.

A handwritten signature in dark ink, reading "Ansel Schwartz", is written over a horizontal line.

Ansel M. Schwartz
Registration No. 30,587
Attorney at Law
201 N. Craig Street
Suite 304
Pittsburgh, PA 15213
412-621-9222

When I receive the mail, I docket any Office Actions that are received regarding patent applications from the United States Patent and Trademark Office.

My only employee, Tracey Klaas, who is my office assistant and has been with me since the inception of my law firm, also separately maintains a docket and also docket any Office Actions received from the United States Patent and Trademark Office concerning any patent applications.

On August 15, 2005, I called Examiner Steven Nguyen, the examiner for the above-identified patent application. I questioned him about the status of the above-identified patent application and whether an Office Action for the above-identified patent application had been sent out by the U.S. Patent and Trademark Office in response to the Amendment I filed on October 8, 2003, for the above-identified patent application.

Examiner Nguyen informed me that he had sent out a final Office Action for the above-identified patent application on December 23, 2003; and that the above-identified patent application was still active.

I explained to Examiner Nguyen that I never received the December 23, 2003 Office Action and requested that he please fax it to me so I could respond to it.

Up until the date of August 15, 2005, I have not received the Office Action dated December 23, 2003 for the above-identified patent application.

Examiner Nguyen said he would have to abandon the above-identified patent application, and I would have to file a Petition to Revive the above-identified patent application. On August 16, 2005, Examiner Nguyen faxed me the Office Action dated December 23, 2003.

A review of both docket systems that are maintained in my law firm show that no Office Action for the above-identified publication was ever received. There is no indication at all of any entry in our docket systems of having received an Office Action for the above-identified patent application at any time to date.

I called Examiner Nguyen about the status of the above-identified patent application because I reviewed the file of the above-identified patent application as part of preparing for a response to an Office Action from the European Patent Office for the corresponding EPO application.

I have reviewed the file jacket and the file itself of the above-identified patent application and have searched the same but did not find the subject Office Action that was supposedly mailed to me having a date of December 23, 2003.

I have included a copy of both docket reports that are kept in my office in relevant part. I have redacted the names of clients on these reports to preserve the attorney-client privilege, but other than that provide you with a true and correct copy of the relevant portions of each of the docket reports concerning the three month date that a response to the subject Office Action would have been due and when it would have been docketed, as is our normal practice.

I have included a copy of the file jacket for the above-identified patent application, showing no entry was made for the subject Office Action.

A search of the office has not yielded or revealed or indicated that the subject Office Action had ever been received by my office.

The file jacket shows that no entry was ever made to it regarding the subject Office Action. Instead, it is a common practice of my firm whenever an Office Action is received regarding a given patent application from the United States Patent and Trademark Office to make such an entry on the file jacket. The copies of the docket reports regarding the timely time period in question regarding the subject Office Action show no entry regarding the subject Office Action. It is a common practice of my firm that for a typical Office Action that has a three month period for response, the associated date of the three month ending period is entered into the docket.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

8/26/05

Date

Ansel M. Schwartz

Ansel M. Schwartz

COPIRE J...
 AUG 17 2005
 PAPER 12

BEST AVAILABLE COPY

SUNDAY	MONDAY	TUESDAY	WEDNESDAY
	1 6/9 8/9	2 94 IF. 95 IF. 11 OCT+US 10 MO. F.F.	3 21 10 MO. F.F.
7 5/6	8 18 Si 3/24/ not extendable	9 82 O.A. 3ND	10 19 5/6
14 2 NO	15 15	16 84 EPB. O.A. 1/4	17 17 3 NO O.A.
21 Benito Juarez' Birthday (M) Mothering Sunday (UK)	22 22 6 NO to 12 OCT 6 NO 38 1/4 2 NO	23 8/9	24 6 NO 6 EXT 1/4
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BEST AVAILABLE COPY MARCH 2004

THURSDAY

FRIDAY

SATURDAY

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July 2004

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|-----|--|----------------------------------|----------------|
| 77. | ██████████
3rd Maintenance Fee | (██████████ -1 CONT) | March 2, 2004 |
| 78. | ██████████
Foreign Filing | (██████████ -21) | March 2, 2004 |
| 79. | ██████████
Response | (██████████ -1) | March 4, 2004 |
| 80. | ██████████
Response | (██████████ -39) | March 4, 2004 |
| 81. | ██████████
2nd Maintenance Fee | (5,600 ██████████) | March 4, 2004 |
| 82. | ██████████
1 st Maintenance Fee | (██████████ -1) | March 6, 2004 |
| 83. | ██████████
Response | (██████████ -82) | March 9, 2004 |
| 84. | ██████████
Foreign Filing | (██████████ -94) | March 9, 2004 |
| 85. | ██████████
Foreign Filing | (██████████ -95) | March 9, 2004 |
| 86. | ██████████
Response | (██████████ -19) | March 10, 2004 |
| 87. | ██████████
2 nd Maintenance Fee | (5,610 ██████████) | March 11, 2004 |
| 88. | ██████████
Formal Drawings | (██████████ -8) | March 12, 2004 |
| 89. | ██████████
1 st Maintenance Fee | (██████████ -10) | March 13, 2004 |

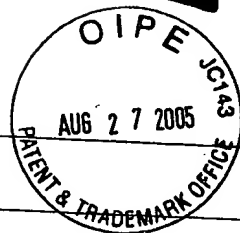
[Updated February 19, 2004]

- | | | | |
|------|---|--------------------|----------------|
| 90. | [REDACTED]
Appeal | [REDACTED]-8) | March 14, 2004 |
| 91. | [REDACTED]
Response | [REDACTED]-17) | March 17, 2004 |
| 92. | [REDACTED]
Non-provisional | [REDACTED]-10) | March 17, 2004 |
| 93. | [REDACTED]
Foreign Filing | [REDACTED]-10) | March 17, 2004 |
| 94. | [REDACTED]
Response | [REDACTED]-72) | March 19, 2004 |
| 95. | [REDACTED]
Foreign Filing | [REDACTED]-97) | March 20, 2004 |
| 96. | [REDACTED]
Appeal | [REDACTED]-38) | March 22, 2004 |
| 97. | [REDACTED]
Formal Drawings | [REDACTED]-2 CONT) | March 22, 2004 |
| 98. | [REDACTED]
4 th Extension of Time | ([REDACTED]-10) | March 26, 2004 |
| 99. | [REDACTED]
1 st Maintenance Fee | [REDACTED]-20) | March 27, 2004 |
| 100. | [REDACTED]
Appeal | [REDACTED]-8) | March 27, 2004 |
| 101. | [REDACTED]
[REDACTED] | [REDACTED]-19) | March 27, 2004 |
| 102. | [REDACTED]
Issue Fee | [REDACTED]-2) | March 29, 2004 |

FILE NO.:

FORE-43

CLIENT FORE Systems, Inc.



ART UNIT

INVENTOR(S) Ronald Bianchini, Jr.

TITLE USPA: VERY WIDE MEMORY TDM SWITCHING SYSTEM

SERIAL NO. 09/293,563

FILED

April 15, 1999

PATENT NO.

ISSUED

OFFICIAL ACTIONS

RESPONSE DUE

RESPONSE FILED

Missing Parts

July 5, 1999

July 6, 1999

Response

September 5, 2002

September 5, 2002

Response

March 3, 2003

March 3, 2003

Appeal Brief

May 3, 2003

Response

October 3, 2003

October 3, 2003

SIGNMENT: FORE

REEL: 9900

FRAME: 0643

DATE RECORDED: 4/15/99

PRIORITY DATE: April 15, 2000

MAINTENANCE FEES

DATE DUE

DATE PAID

RESPONDING APPLICATIONS:

RKS:



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
RONALD BIANCHINI, JR.)
)
Serial No. 09/293,563)
)
Filed: April 15, 1999) VERY WIDE MEMORY TDM
) SWITCHING SYSTEM
Art Unit: 2665)
)
Patent Examiner:)
)
Steven H. D. Nguyen)

Pittsburgh, Pennsylvania 15213

August 26, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. §1.132

I, Tracey L. Klaas, hereby declare that:

I am the office assistant in the law firm of Ansel M. Schwartz, Attorney of Law. I
have been the office assistant since the inception of the firm in 1991.

One of my duties is to maintain a docket regarding Office Actions from the
United States Patent and Trademark Office.

When we receive the mail, I docket any Office Actions that have been received from the United States Patent and Trademark Office.

A review of my docket regarding the above-identified patent application indicates that no Office Action has ever been received for the above-identified patent application from the United States Patent and Trademark Office.

I have not received an Office Action from the United States Patent and Trademark Office concerning the above-identified patent application.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

8/26/05
Date

Tracey L. Klaas
Tracey L. Klaas